

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4540

To provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1994

Mr. EVANS (for himself, Mr. BROWDER, Mr. DELLUMS, Mr. GUTIERREZ, Mr. McCLOSKEY, Mr. OBERSTAR, Mr. GONZALEZ, Mr. BROWN of California, Mrs. SCHROEDER, Mr. FILNER, Ms. WATERS, Mr. KENNEDY, Mr. BOUCHER, Mr. FALEOMAVAEGA, Mr. HOLDEN, Mr. ACKERMAN, Mr. HOCHBRUECKNER, Mr. WASHINGTON, Mr. CARR of Michigan, Mr. FARR of California, Mr. FRANK of Massachusetts, Mr. COOPER, Mr. GEJDENSON, Mr. SANDERS, Ms. SLAUGHTER, Mr. SERRANO, Mr. KREIDLER, Mr. BARLOW, Mr. TRAFICANT, Mrs. LOWEY, Mr. BARRETT of Wisconsin, Mr. HALL of Ohio, Mr. ANDREWS of Maine, Mr. KOPETSKI, Mr. ORTON, Mr. OLVER, Mr. UNDERWOOD, Mr. KLECZKA, Mr. EDWARDS of California, Mr. MARKEY, Mr. JOHNSTON of Florida, Mr. JEFFERSON, Mr. FINGERHUT, Mr. MANTON, Mr. STRICKLAND, Mr. LANCASTER, Mr. MINETA, Mr. SWETT, Mr. DEUTSCH, Mr. BONIOR, Mr. BILBRAY, Mrs. UNSOELD, Mr. PETERSON of Florida, and Mr. RICHARDSON) introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Persian Gulf War Vet-  
3 erans’ Compensation Act of 1994”.

4 **SEC. 2. CONGRESSIONAL FINDINGS.**

5 The Congress makes the following findings:

6 (1) The United States bears responsibility for  
7 the care and treatment of illnesses and disabilities  
8 connected with service in the Armed Forces. When  
9 the etiology of a specific condition occurring in vet-  
10 erans is unknown, it is the Government’s responsibil-  
11 ity to give veterans the benefit of the doubt and to  
12 provide appropriate treatment and compensation  
13 until the scientific evidence warrants otherwise.

14 (2) During the Persian Gulf War, members of  
15 the Armed Forces (A) were exposed to numerous po-  
16 tentially toxic substances (including fumes and  
17 smoke from petrochemicals and depleted uranium),  
18 to infectious agents, to chemoprophylactic agents,  
19 and to indigenous diseases, (B) received multiple im-  
20 munizations and (C) may have been exposed to var-  
21 ious chemical and biological warfare agents. Threats  
22 of enemy use of chemical and biological weapons  
23 heightened the psychological stress otherwise associ-  
24 ated with the military operation.

25 (3) Significant numbers of veterans of the Per-  
26 sian Gulf War are suffering from illnesses, or are ex-

1       hibiting symptoms of illnesses, that cannot (as of the  
2       enactment of this Act) be diagnosed or clearly de-  
3       fined. As a result, many of these conditions or ill-  
4       nesses are not considered to be service connected for  
5       purposes of benefits administered by the Secretary  
6       of Veterans Affairs.

7               (4) The Technology Assessment Workshop on  
8       the Persian Gulf Experience and Health conducted  
9       by the National Institutes of Health found that the  
10      complex biological, chemical, physical, and psycho-  
11      logical environment of the Southwest Asia theater of  
12      operations produced complex adverse health effects  
13      in Persian Gulf War veterans and that it appears as  
14      if there is no single condition or illness among af-  
15      fected Persian Gulf War veterans, but rather mul-  
16      tiple illnesses with overlapping symptoms and  
17      causes.

18             (5) That workshop concluded that the data con-  
19      cerning the range and intensity of exposure to toxic  
20      substances by military personnel in the Southwest  
21      Asia theater of operations are very limited and that  
22      such data were collected only after a considerable  
23      delay.

24             (6) In response to concerns regarding the  
25      health care needs of Persian Gulf War veterans, par-

1        ticularly those who suffer from undiagnosable condi-  
2        tions or illnesses, the Congress, in Public Law 102–  
3        585, directed the establishment of the Persian Gulf  
4        War Veterans Health Registry, authorized health ex-  
5        aminations for Persian Gulf War veterans, and pro-  
6        vided for the National Academy of Sciences to con-  
7        duct a comprehensive review and assessment of in-  
8        formation regarding the health consequences of mili-  
9        tary service in the theater of operations during the  
10       Persian Gulf War and to develop recommendations  
11       for research on such health consequences. In Public  
12       Law 103–210, Congress authorized the Department  
13       of Veterans Affairs to provide health care services on  
14       a priority basis to Persian Gulf War veterans. In  
15       Public Law 103–160, Congress provided funding for  
16       the establishment of a specialized environmental  
17       medical facility for the conduct of research into the  
18       potential health effects of low-level chemical expo-  
19       sure and for research on the potential health effects  
20       of battlefield exposure to depleted uranium.

21       (7) The workshop referred to in paragraph (4)  
22       noted that well-designed epidemiological studies have  
23       not been conducted to link the conditions or illnesses  
24       of the military personnel with exposures in the thea-  
25       ter of operations during the Persian Gulf War and

1 found that the absence of such studies has hampered  
2 efforts to provide treatment and compensation to  
3 veterans of the Persian Gulf War. Accordingly, fur-  
4 ther research and studies should be undertaken to  
5 determine the underlying causes of the illnesses suf-  
6 fered by Persian Gulf War veterans and, pending  
7 the outcome of such research, veterans who are seri-  
8 ously ill and whose illness may be related to their  
9 military service should receive compensation benefits  
10 to offset the impairment in earnings capacities they  
11 may be experiencing.

12 **SEC. 3. PURPOSES.**

13 The purposes of this Act are—

- 14 (1) to require the Secretary of Veterans Affairs  
15 to provide compensation to Persian Gulf War veter-  
16 ans who have disabilities resulting from an illness or  
17 illnesses that cannot (as of the enactment of this  
18 Act) be diagnosed or defined and for which other  
19 causes cannot (as of the enactment of this Act) be  
20 identified until such time as scientific evidence dem-  
21 onstrates that the illnesses are unrelated to military  
22 service during the Persian Gulf War;
- 23 (2) to require the Secretary of Veterans Affairs  
24 to develop case assessment protocols and case defini-  
25 tions for such illnesses;

1           (3) to establish an outreach program to Persian  
2       Gulf War veterans and their families to inform them  
3       of ongoing research activities as well as the services  
4       and benefits for which they are eligible; and

5           (4) to authorize further research activities, in-  
6       cluding an epidemiological study, on the health risks  
7       and effects of military service in the Southwest thea-  
8       ter of operations during the Persian Gulf War.

9       **SEC. 4. DEVELOPMENT OF CASE ASSESSMENT PROTOCOLS**  
10           **AND CASE DEFINITIONS.**

11       (a) UNIFORM CASE ASSESSMENT PROTOCOL.—(1)  
12       The Secretary of Veterans Affairs shall develop and imple-  
13       ment a uniform case assessment protocol that will ensure  
14       thorough assessment, diagnosis, and treatment of all Per-  
15       sian Gulf War veterans suffering from illnesses the origins  
16       of which are (as of the enactment of this Act) unknown  
17       and that may be attributable to service in the Southwest  
18       Asia theater of operations during the Persian Gulf War.

19       (2) If such a uniform case assessment protocol is not  
20       implemented before the end of the 120-day period begin-  
21       ning on the date of the enactment of this Act, the Sec-  
22       retary shall, before the end of such period, submit to the  
23       Committees on Veterans' Affairs of the Senate and House  
24       of Representatives a report as to why such a protocol has  
25       not yet been developed.

1       (b) CASE DEFINITIONS.—(1) The Secretary shall de-  
2 velop case definitions or diagnoses for illnesses, the origins  
3 of which are (as of the enactment of this Act) unknown  
4 and that may be associated with service in the Persian  
5 Gulf War.

6       (2) If such case definitions and diagnoses are not de-  
7 veloped before the end of the 120-day period beginning  
8 on the date of the enactment of this Act, the Secretary  
9 shall, before the end of such period, submit to the Commit-  
10 tees on Veterans' Affairs of the Senate and House of Rep-  
11 resentatives a report as to why such case definitions and  
12 diagnoses have not yet been developed.

13       (c) CONSULTATION.—Subsections (a) and (b) shall be  
14 carried out in consultation with the Secretary of Defense  
15 and the Secretary of Health and Human Services.

16 **SEC. 5. OUTREACH TO PERSIAN GULF VETERANS.**

17       (a) IN GENERAL.—The Secretary of Veterans Affairs  
18 shall implement a comprehensive outreach program to in-  
19 form Persian Gulf War veterans and their families of the  
20 medical care and other benefits that may be provided by  
21 the Department of Veterans Affairs and the Department  
22 of Defense arising from service in the Persian Gulf War.

23       (b) NEWSLETTER.—The outreach program shall in-  
24 clude a newsletter which shall be updated and distributed  
25 at least annually and shall be distributed to the veterans

1 listed on the Persian Gulf War Veterans Health Registry.  
2 The newsletter shall include summaries of the status and  
3 findings of Government sponsored research on illnesses of  
4 Persian Gulf War veterans and their families as well as  
5 on benefits available to such individuals through the De-  
6 partment of Veterans Affairs. The newsletter shall be pre-  
7 pared in consultation with veterans service organizations.

8 (c) TOLL-FREE NUMBER.—The outreach program  
9 shall include establishment of a toll-free telephone number  
10 to provide Persian Gulf War veterans and their families  
11 information on the Persian Gulf War Veterans Health  
12 Registry, health care and other benefits provided by the  
13 Department of Veterans Affairs, and such other informa-  
14 tion as the Secretary considers appropriate. Such toll-free  
15 telephone number shall be established not later than 90  
16 days after the date of the enactment of this Act.

17 **SEC. 6. COMPENSATION FOR DISABILITIES RESULTING**  
18 **FROM ILLNESSES ASSOCIATED WITH SERV-**  
19 **ICE DURING THE PERSIAN GULF WAR.**

20 (a) IN GENERAL.—

21 (1) Chapter 11 of title 38, United States Code,  
22 is amended by adding at the end of subchapter I the  
23 following new section:

1   **“§ 1117. Compensation for conditions or illnesses of**  
2                   **unknown origin associated with service**  
3                   **during the Persian Gulf War**

4           “(a) The Secretary shall pay compensation under this  
5 subchapter to a Persian Gulf War veteran suffering from  
6 a disability resulting from an undiagnosed illness, or com-  
7 bination of illness, that becomes manifest to a degree of  
8 10 percent or more within three years of separation from  
9 active military, naval, or air service.

10          “(b)(1) The Secretary shall issue, within 90 days of  
11 the date of the enactment of this section, preliminary reg-  
12 ulations governing the award of such compensation.

13          “(2) The percentage of disability that equals 10 per-  
14 cent shall be described as ‘mild impairment of social and  
15 industrial adaptability’.

16          “(3) The percentage of disability that equals a total  
17 or 100 percent rating shall be described as ‘demonstra-  
18 tively unable to obtain or retain substantial gainful em-  
19 ployment’.

20          “(4) In determining the rating schedule for such dis-  
21 ability, the Secretary should examine analogous ratings.

22          “(5) In determining eligibility for compensation  
23 under this section, the Secretary shall give due consider-  
24 ation to ‘lay evidence’, including testimony provided by the  
25 claimant, supporting witnesses, and independent medical  
26 experts.

1       “(c) Not later than 60 days after the date on which  
2 the Secretary issues any proposed regulations pursuant to  
3 this section, the Secretary shall issue final regulations  
4 under this section. Such regulations shall be effective on  
5 the date of issuance.

6       “(d) A disability for which compensation under this  
7 section is awarded shall be considered to be service con-  
8 nected for purposes of all other laws of the United States.

9       “(e) Compensation may not be paid under this sec-  
10 tion for a disability occurring in a veteran—

11               “(1) where there is a preponderance of evidence  
12 that the disability was not incurred by the veteran  
13 in the Southwest Asia theater of operations during  
14 the Persian Gulf War; or

15               “(2) where there is a preponderance of evidence  
16 to establish that an intercurrent injury or illness  
17 which is a recognized cause of the disability was suf-  
18 fered by the veteran between the date of the veter-  
19 an’s most recent departure from the Southwest Asia  
20 theater of operations while on active duty and the  
21 onset of the disability.

22       “(f) For purposes of this section, the term ‘Persian  
23 Gulf veteran’ means a veteran who served on active duty  
24 in the Armed Forces in the Southwest Asia theater of op-  
25 erations during the Persian Gulf War.

1       “(g) Payments shall be made under this section to  
2 a veteran until such time as the scientific evidence dem-  
3 onstrates that the illnesses for which compensation is  
4 awarded under this section are not connected to service  
5 in the Southwest Asia theater of operations during the  
6 Persian Gulf War. The Secretary may cease payments  
7 under this section only after providing a report describing  
8 the Secretary’s intentions, as well as the scientific basis  
9 for ceasing such payments, at least 90 days before imple-  
10 mentation of such action to the Committees on Veterans  
11 Affairs of the Senate and House of Representatives.

12       “(h) Compensation awarded under this section shall  
13 not preclude a veteran from receiving retroactive com-  
14 pensation for a benefit claim that was filed before the date  
15 of the enactment of this section if the veteran’s illness or  
16 illnesses are later found to be service connected.

17       “(i) The Secretary shall consider having all claims for  
18 compensation under this section adjudicated on a priority  
19 basis at a single Department facility in order to better  
20 ensure the consistency of rating decisions.

21       “(j) The Secretary shall have all claims for service-  
22 connected benefits connected to an undiagnosable illness  
23 or illnesses in veterans of the Persian Gulf War that were  
24 denied before the date of the enactment of this section  
25 reopened and adjudicated as original claims. In such a

1 case, the date of claim shall be considered to be the date  
2 on which the original claim was filed.”.

3 (2) The table of sections at the beginning of  
4 such chapter is amended by inserting after the item  
5 relating to section 1116 the following new item:

“1117. Presumption of service connection for illnesses associated with the Persian Gulf War.”.

6 (b) EFFECTIVE DATE.—Section 1117 of title 38,  
7 United States Code, as added by subsection (a), shall take  
8 effect on October 1, 1994.

9 **SEC. 7. RESULTS OF EXAMINATIONS AND TREATMENT OF**  
10 **PERSIAN GULF WAR VETERANS WITH**  
11 **UNDIAGNOSABLE ILLNESSES.**

12 (a) ACCESS TO DATA.—The Secretary of Veterans  
13 Affairs shall enter into an agreement with the Secretary  
14 of Defense to have access to all clinical data of the Department of Defense on veterans of the Persian Gulf War who  
15 remain on active duty.

17 (b) ONGOING COMPILATION OF DATA.—The Secretary of Veterans Affairs shall compile and analyze, on  
18 a continuing basis, all clinical data obtained on veterans  
19 of the Persian Gulf War in connection with examinations  
20 and treatment furnished by the Department of Veterans  
21 Affairs and the Department of Defense that are likely (1)  
22 to be scientifically useful in determining the association  
23 between the undiagnosable illnesses of veterans and their  
24

1 service in the Southwest Asia theater of operations during  
2 the Persian Gulf War, and (2) to be useful in the develop-  
3 ment of case assessment protocols or case definitions.

4 (c) ANNUAL REPORT.—The Secretary shall submit to  
5 the Committees on Veterans' Affairs of the Senate and  
6 House of Representatives an annual report containing—

7 (1) the information compiled in accordance with  
8 subsection (b);

9 (2) the Secretary's analysis of such information;

10 (3) a discussion of the incidence of illnesses  
11 identified or treated by the Department of Veterans  
12 Affairs in the case of veterans referred to in sub-  
13 section (b); and

14 (4) the Secretary's explanation for the incidence  
15 of such illnesses and disabilities.

16 **SEC. 8. EPIDEMIOLOGICAL RESEARCH.**

17 (a) CONTRACT.—The Secretary of Veterans Affairs  
18 shall enter into a contract for the conduct of an epidemio-  
19 logical study designed to assess both the short- and long-  
20 term health consequences of service in the Southwest Asia  
21 theater of operations during the Persian Gulf War on vet-  
22 erans of the Persian Gulf War and their immediate family  
23 members.

24 (b) OVERSIGHT.—(1) The Secretary shall seek to  
25 enter into an agreement with the National Academy of

1 Sciences for the Medical Follow-Up Agency (MFUA) of  
2 the Institute of Medicine of the Academy for (A) the re-  
3 view of proposals to conduct the research specified in sub-  
4 section (a), (B) oversight of such research, and (C) review  
5 of the research findings.

6 (2) If the Secretary is unable to enter into an agree-  
7 ment under paragraph (1) with the entity specified in that  
8 paragraph, the Secretary shall enter into an agreement de-  
9 scribed in that paragraph with another appropriate sci-  
10 entific organization which does not have a connection to  
11 the Department of Veterans Affairs. In such a case, the  
12 Secretary shall submit to the Committees on Veterans' Af-  
13 fairs of the Senate and House of Representatives, at least  
14 90 days before the date on which the agreement is entered  
15 into, notice in writing identifying the organization with  
16 which the Secretary intends to enter into the agreement.

17 (c) ACCESS TO DATA.—The Secretary shall enter into  
18 agreements with the Secretary of Defense and the Sec-  
19 retary of Health and Human Services to access and make  
20 available to the contractor under subsection (a) all data  
21 that the Secretary, in consultation with the National  
22 Academy of Sciences and the contractor, considers rel-  
23 evant to the study.

24 (d) STATUS REPORT.—Within 180 days after the  
25 date of the enactment of this Act, the Secretary shall sub-

1 mit to the Committees on Veterans' Affairs of the Senate  
2 and House of Representatives a report on the status of  
3 the contract specified in subsection (a).

4 (e) AUTHORIZATION.—There is authorized to be ap-  
5 propriated to the Department \$7,500,000 for each of fis-  
6 cal years 1995 through 2000 for the conduct of the re-  
7 search specified in subsection (a). In addition to amounts  
8 for such research appropriated pursuant to the preceding  
9 sentence, the Secretary may provide funds for such re-  
10 search from any funds appropriated for any fiscal year  
11 after fiscal year 1994 for the purpose of research spon-  
12 sored by the Department.

13 (f) ANNUAL REPORT.—For each year of the study,  
14 the Secretary shall submit to the Committees on Veterans'  
15 Affairs of the Senate and House of Representatives a re-  
16 port accompanying the budget for that year containing—

17 (1) the methodology and status of the study  
18 specified in subsection (a); and

19 (2) any preliminary analyses of the information  
20 compiled in accordance with subsection (a), includ-  
21 ing that provided by the National Academy of  
22 Sciences.

23 (g) FINAL REPORT.—At the conclusion of the study,  
24 the Secretary shall submit to the Committees on Veterans'

1 Affairs of the Senate and House of Representatives a re-  
2 port accompanying the budget containing—

3       (1) the methodology of the study specified in  
4 subsection (a);

5       (2) the analysis of the information compiled in  
6 accordance with subsection (a), including that pro-  
7 vided by the National Academy of Sciences;

8       (3) a discussion of incidence of illnesses ob-  
9 served in veterans of the Persian Gulf War and their  
10 families;

11       (4) the National Academy of Sciences conclu-  
12 sions concerning the health consequences of service  
13 in the Southwest Asia theater of operations during  
14 the Persian Gulf War on veterans and their imme-  
15 diate family members; and

16       (5) the Secretary's explanation for the incidence  
17 of such illnesses and disabilities and recommenda-  
18 tions for future action.

19 **SEC. 9. AUTHORIZATION FOR OTHER RESEARCH.**

20       There is authorized to be appropriated to the Depart-  
21 ment of Veterans Affairs \$5,000,000 for each of fiscal  
22 years 1995 through 1998 for the conduct of research  
23 which the Secretary, in consultation with the Secretary of  
24 Defense and the Secretary of Health and Human Services,  
25 determines could advance understanding of health risks

- 1 and effects of service during the Persian Gulf War and
- 2 the means of treating those health effects.

